

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CINDY GLASS PEASLEE,)	
)	
Plaintiff,)	
)	No. 08 C 3167
v.)	
)	Judge Samuel Der-Yeghiayan
ILLINOIS STUDENT ASSISTANCE)	
COMMISSION,)	
)	
Defendant.)	

DEFENDANT ILLINOIS STUDENT ASSISTANCE COMMISSION'S
MOTION TO DISMISS

Defendant, the Illinois Student Assistance Commission (hereinafter "ISAC"), by and through its attorney, LISA MADIGAN, Illinois Attorney General, hereby requests this Honorable Court dismiss Plaintiff's Complaint pursuant to Fed.R.Civ.Pro. 12(b)(1), on the basis that the Eleventh Amendment deprives the Court of subject matter jurisdiction over ISAC, an agency of the State of Illinois, and further requests that Plaintiff's request for injunctive relief be stricken. In support thereof, Defendant states as follows:

1. Plaintiff filed this action on June 2, 2008, claiming violations of the Fair Credit Reporting Act against ISAC with respect to her student loan account's reported status. (Complaint, ¶6)
2. Plaintiff's claims against ISAC must be dismissed as ISAC is immune from suit pursuant to the Eleventh Amendment. *Kroll v. Bd. of Trustees of University of Illinois*, 934 F.Supp.2d 904, 907 (7th Cir. 1991).

3. Eleventh Amendment immunity is applicable in this case, as neither Illinois nor ISAC has consented to be sued in Federal Court, and Congress did not validly abrogate Eleventh Amendment immunity under the FCRA. *Seminole Tribe of Fla. v. Fla.*, 517 U.S. 44, 59-66 (1996); *Sorrel v. ISAC*, 314 F.Supp.2d 813 (C.D.Ill. 2004)
4. Furthermore, no exception to Eleventh Amendment immunity is present in this action. *Ex Parte Young*, 209 U.S. 123 (1908)
5. Finally, any claim for injunctive relief should be stricken, as the FCRA does not allow for injunctive relief in actions brought by private plaintiffs. *Washington v. CSC Credit Services, Inc.*, 199 F.3d 263 (5th Cir. 2000); *In re Trans Union Corp. Privacy Litigation*, 211 F.R.D. 328, 339 (N.D. Ill. 2002).
6. A separate memorandum of law is submitted in support of this motion.

WHEREFORE, Defendant ISAC respectfully requests this Honorable Court dismiss Plaintiff's complaint in its entirety and strike Plaintiff's request for injunctive relief.

Respectfully submitted,

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Illinois Attorney General

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